THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

and

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT APPEAL NO.2225 OF 2005

Dated: 17-11-2005

Between:

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1. Gugulothu Veeru (died)
2. Gugulothu Roopla …Appellant

And

Ajmeera Raghavulu and others …Respondents

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

and

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT APPEAL NO.2225 OF 2005

J U D G M E N T (Per the Hon'ble Sri Bilal Nazki, ACJ):

Heard learned counsel for the parties.

The learned Single Judge passed an order in W.P. No.22009 of 2005. He suspended the order passed by the third and second respondents, in the writ petition, in LTR Case No.2/04/CHG, dated 30-11-2004 and CMA No.24/05/CHG,

dated 28-05-2005 respectively and allowed the writ petitioner to file a revision. These two orders were orders in favour of the fourth respondent in the writ petition. The order against the fourth respondent was passed in the writ petition without even giving a notice to him. Only learned counsel for the writ petitioner and the learned Government Pleader were heard. Now the writ appeal has been filed primarily by the second appellant, who claims to be the father of the fourth respondent in the writ petition. According to him, the fourth respondent, who is his son, was dead on the date the learned Single Judge passed the order, therefore, the order is a nullity. The learned counsel for the first respondent/writ petitioner, however, submits that he has only been informed today that the fourth respondent in the writ petition had died before the writ petition was filed and he will have to get instructions from his client. We feel that this Court need not enquire into whether the fourth respondent in the writ petition had died before filing the writ petition or not because the order of the learned Single Judge cannot even be sustained on the ground that the learned Single Judge had not given any notice to the fourth respondent against whom he passed the order. Therefore, we allow the writ appeal, set aside the order of the learned Single Judge and remand the case to the learned Single Judge for fresh disposal. The learned Single Judge can also enquire whether the writ petition was filed after the death of the fourth respondent. In the meantime, learned counsel for the appellant submits that by virtue of the orders passed in favour of the appellant, possession had been given to him on 05-10-2005 and because of the order of the learned Single Judge dated 07-10-2005, his possession was altered. Therefore, we direct that status quo as existing on 05-10-2005 shall be restored immediately. No order as to costs.

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(Bilal Nazki, ACJ)

17th November, 2005

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(R.Subhash Reddy,J)

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Note: Issue wire at party's cost

B/o

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